



January 22, 2016

HOUSE BILL No. 1224

DIGEST OF HB 1224 (Updated January 20, 2016 4:31 pm - DI 113)

Citations Affected: IC 15-15; IC 34-30.

Synopsis: Beef market development. Requires that a state assessment of \$1 per head of cattle must be collected on the sale of cattle in Indiana. Provides that the Indiana Beef Council (council) is responsible for the collection and use of the assessment collected. Establishes duties and responsibilities for the council. Establishes procedures to allow a cattle producer to be refunded the assessment. Provides that the council cease collecting assessments if certain conditions are met. Makes conforming changes.

Effective: July 1, 2016.

Lehe, Baird, Goodin, Klinker

January 11, 2016, read first time and referred to Committee on Agriculture and Rural Development.

January 14, 2016, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

January 21, 2016, reported — Do Pass.

HB 1224—LS 6873/DI 77



January 22, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1224

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-15-11-1, AS AMENDED BY P.L.130-2011,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 1. As used in this chapter, "agricultural
4 commodity" means poultry, poultry products, ~~cattle~~, dairy products,
5 sheep, wool, goats, mint, soybeans, wheat, or small grains. The term
6 includes flour made from wheat or small grains.

7 SECTION 2. IC 15-15-14 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2016]:

10 **Chapter 14. Indiana Beef Market Development**

11 **Sec. 1. This chapter applies to the sale of all cattle by a producer**
12 **in Indiana.**

13 **Sec. 2. As used in this chapter, "cattle" means animals of the**
14 **bovine species, including calves.**

15 **Sec. 3. As used in this chapter, "council" refers to the Indiana**
16 **Beef Council of the Indiana Beef Cattle Association or a successor**
17 **organization that is certified by the federal Cattlemen's Beef**

HB 1224—LS 6873/DI 77



Promotion and Research Board as a qualified state beef council in Indiana.

Sec. 4. As used in this chapter, "first purchaser" means a person, stockyard, slaughterhouse, feed yard, bank, packing plant, or livestock auction market that purchases cattle in Indiana from a producer.

Sec. 5. As used in this chapter, "market development" means to:

- (1) provide for the development of new or larger domestic and foreign markets for cattle; and
- (2) access federal government money available to the state to further the market development activities described in subdivision (1).

Sec. 6. As used in this chapter, "marketing year" means the twelve (12) month period beginning April 1 and ending the following March 31.

Sec. 7. As used in this chapter, "person" means an individual, a partnership, a limited liability company, a public or private corporation, a political subdivision (as defined in IC 36-1-2-13), a cooperative, a society, an association, or a fiduciary.

Sec. 8. As used in this chapter, "producer" means a person that sells cattle in Indiana under:

- (1) the producer's own name; or
- (2) the name of an entity in which the producer has ownership.

Sec. 9. As used in this chapter, "promotion" means:

- (1) communication directly with cattle producers;
- (2) technical assistance; and
- (3) trade marketing activities;

to enhance the marketing opportunities of cattle and cattle products in domestic and foreign markets.

Sec. 10. As used in this chapter, "research" means a study to advance the:

- (1) marketability;
- (2) production;
- (3) product development;
- (4) quality; or
- (5) functional or nutritional value;

of cattle and cattle products, including a research activity designed to identify and analyze barriers to domestic and foreign sales of cattle or cattle products.

Sec. 11. As used in this chapter, "sale" means a sale of cattle at the point of delivery when the cattle are delivered and ownership



1 of the cattle is transferred.

2 **Sec. 12. (a) The council shall administer this chapter.**

3 **(b) The council shall be and remain certified by the federal**
 4 **Cattlemen's Beef Promotion and Research Board as a qualified**
 5 **state beef council.**

6 **Sec. 13. (a) The council shall do the following:**

7 **(1) Elect a president, vice president, secretary, treasurer, and**
 8 **other officers the council considers necessary.**

9 **(2) Employ personnel and contract for services that are**
 10 **necessary for the proper implementation of this chapter.**

11 **(3) Authorize the expenditure of funds and the contracting of**
 12 **expenditures to conduct proper activities under this chapter.**

13 **(4) Annually establish priorities and prepare and approve a**
 14 **budget consistent with the estimated resources of the council**
 15 **and the scope of this chapter.**

16 **(5) Annually publish an activities report and audit, including**
 17 **the amounts collected and refunded under this chapter, and**
 18 **present the report and audit to the legislative council**
 19 **(established by IC 2-5-1.1-1). The report and audit must be:**

20 **(A) sent to the legislative council in an electronic format**
 21 **under IC 5-14-6; and**

22 **(B) made available on the council's Internet web site.**

23 **(6) Procure and evaluate data and information necessary for**
 24 **the proper implementation of this chapter.**

25 **(7) Receive and investigate, or cause to be investigated,**
 26 **complaints and violations of this chapter and take necessary**
 27 **action within the council's authority.**

28 **(8) Adopt operating procedures governing operations of the**
 29 **council.**

30 **(9) Keep accurate accounts of all receipts and disbursements**
 31 **of funds handled by the council and have the receipts and**
 32 **disbursements audited annually by a certified public**
 33 **accountant.**

34 **(10) Establish and maintain an Internet web site. The Internet**
 35 **web site must contain each type of form required under this**
 36 **chapter in a downloadable format.**

37 **(11) Take any other action necessary for the proper**
 38 **implementation of this chapter.**

39 **(b) A majority of the voting members of the council constitutes**
 40 **a quorum. The affirmative votes of at least a majority of the**
 41 **quorum are required for the council to take action.**

42 **Sec. 14. (a) The council shall meet at least three (3) times in each**



1 marketing year at the call of the president or at the request of
2 two-thirds (2/3) of the members of the council.

3 (b) The council shall comply with the requirements under
4 IC 5-14-1.5 (open door law).

5 Sec. 15. (a) This section does not apply to any federal funds
6 received by the council.

7 (b) The council may pay expenses incurred under this chapter
8 with money from the assessments remitted to the council under this
9 chapter.

10 (c) The council may expend money from assessments not needed
11 for expenses for market development, promotion, education,
12 research, and product development for the beef industry.

13 (d) The council may not use money received, collected, or
14 accrued under this chapter for any purpose other than the
15 purposes authorized by this chapter.

16 Sec. 16. (a) Obligations incurred by the council and other
17 liabilities and claims against the council may be enforced only
18 against the assets of the council. Liabilities for the debts or actions
19 of the council may not arise against:

20 (1) the state;

21 (2) a political subdivision (as defined in IC 34-6-2-110); or

22 (3) a member, an officer, an employee, or an agent of the
23 council in an individual capacity.

24 (b) The members and employees of the council may not be held
25 responsible individually in any way to any person for errors in
26 judgment, mistakes, or other acts either of commission or omission,
27 as principal, agent, or employee, except for their own individual
28 acts that result in the violation of any law.

29 (c) An employee of the council may not be held responsible
30 individually for the act or omission of any member of the council.

31 (d) Any liability of the members of the council is several and not
32 joint. A member of the council may not be held liable for the
33 default of any other member.

34 Sec. 17. (a) In addition to any federal assessment, an assessment
35 of one dollar (\$1) per head of cattle must be collected on all cattle
36 sold in Indiana. The assessment may be imposed and collected on
37 the cattle only once and must be collected by the first purchaser.
38 The rate of the assessment imposed by this section may not be
39 changed.

40 (b) The first purchaser of the cattle shall deduct the assessment
41 on the cattle from the money to be paid to the producer based on
42 the sale of the cattle. A first purchaser shall accumulate



assessments collected under this subsection throughout each month.

(c) The first purchaser shall remit to the council all assessments collected under subsection (b) not later than the 15th day of the month that follows the month that the assessment was collected.

(d) The assessment on the sale of the cattle must occur when the payment for the cattle is received by the producer.

(e) A person that purchases and resells the same cattle not more than ten (10) days later is not required to pay the assessment under this section if the person files a nonproducer status form. The council shall prepare the nonproducer status form.

Sec. 18. (a) If a producer has sold cattle and the state assessment was deducted from the sale of the cattle, the producer may secure a refund equal to the amount deducted upon filing a written application.

(b) A producer's application for a refund under this section must be made to the council not more than ninety (90) days after the assessment is collected by the first purchaser.

(c) The council shall provide refund application forms to a first purchaser for purposes of this section upon request and make refund application forms available on the council's Internet web site. A first purchaser shall place refund application forms so that the forms are available and in plain view at the first purchaser's place of business.

(d) Proof that an assessment has been paid by the producer must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or an original copy of the purchase invoice or settlement sheet from the first purchaser. The refund application form and proof of assessment may be mailed or faxed to the council. The refund form must clearly state how to request a refund, the address where the form may be mailed, and the fax number where the form may be faxed.

(e) If a refund is due under this section, the council shall remit the refund to the producer as follows:

(1) For:

(A) refunds of more than twenty-five dollars (\$25); or

(B) multiple refunds that total more than twenty-five dollars (\$25);

not later than thirty (30) days after the date the producer's completed refund application and proof of assessment are received.



(2) For refunds of twenty-five dollars (\$25) or less:

(A) on March 31 if the producer's completed refund application and proof of assessment are received before March 1; or

(B) on September 30 if the producer's completed refund application and proof of assessment are received on or after March 1 and before September 1.

However, the council may elect to remit a refund sooner than required under this subdivision.

Sec. 19. The assessment refund form must:

(1) contain the address and fax number of the location to which the assessment refund form may be sent;

(2) contain information concerning procedures to claim an assessment refund; and

(3) contain any other information determined necessary by the council.

Sec. 20. (a) A first purchaser shall keep detailed records of all assessments collected and remitted to the council under this chapter for at least three (3) years.

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

(c) The council may periodically audit a first purchaser's assessment and remittance records kept under subsection (a). An audit must be conducted by:

(1) a qualified public accountant of the council's choosing; or

(2) an auditor who is familiar with the sale of cattle.

The costs of any audit shall be paid by the council.

Sec. 21. (a) If a first purchaser fails to remit the assessments collected during a period specified in section 17 of this chapter within thirty (30) days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

(1) the status and amount of the assessments due; and

(2) reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

(1) may adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate;

(2) shall:

(A) assess a fee for an unpaid assessment owed to the



council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this section; and

(B) if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;

(3) shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and

(4) shall determine the date of a payment for purposes of this section by the postmark applied to the remitting envelope.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a), the council may bring a civil action against the first purchaser in a circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

(1) a judgment in the amount of all unremitted assessments; and

(2) an award of the costs of bringing the action.

Sec. 22. (a) Proceeds of the assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.

(b) Proceeds of the assessment collected under this chapter may be used to communicate information related to the:

(1) conduct;

(2) implementation; or

(3) results;

of promotion, research, education, and market and product development activities of cattle and cattle products.

Sec. 23. (a) For the marketing year beginning April 1, 2017, if at least twenty-five percent (25%) of the assessment is refunded during the marketing year, the council shall:

(1) cease collecting the assessment on July 1 of the subsequent year;

(2) maintain a sufficient amount of money to pay any refunds requested by producers; and

(3) request that the legislative council (established by



1 **IC 2-5-1.1-1) have legislation prepared to repeal this chapter.**
 2 **The request under subdivision (3) must be in an electronic format**
 3 **under IC 5-14-6. This subsection expires July 1, 2019.**

4 **(b) If for the marketing year beginning April 1, 2017, less than**
 5 **twenty-five percent (25%) of the assessments are refunded, the**
 6 **council shall review the refunds for each year beginning with the**
 7 **marketing year beginning April 1, 2018.**

8 **(c) Beginning April 1, 2018, if refunds exceed twenty-five**
 9 **percent (25%) in two (2) consecutive marketing years, the council**
 10 **shall:**

11 **(1) cease collecting the assessment on July 1 of the subsequent**
 12 **year;**

13 **(2) maintain a sufficient amount of money to pay any refunds**
 14 **requested by producers; and**

15 **(3) request that the legislative council (established by**
 16 **IC 2-5-1.1-1) have legislation prepared to repeal this chapter.**

17 **Sec. 24. (a) If a person fails to discharge a duty imposed by this**
 18 **chapter other than those related to remitted assessments, the**
 19 **council shall allow the person an opportunity to present comments**
 20 **to the council concerning reasons why the council should not bring**
 21 **legal action against the person. If it is necessary to obtain**
 22 **compliance with this chapter, the council may bring an action**
 23 **against the person in a circuit, superior, or municipal court in any**
 24 **county in which the person is found, resides, or transacts business**
 25 **seeking an injunction mandating compliance and any other**
 26 **appropriate legal remedies.**

27 **(b) In an action under this section, the council may be granted**
 28 **injunctive relief without establishing the absence of an adequate**
 29 **remedy at law.**

30 **SECTION 3. IC 34-30-2-60.1 IS ADDED TO THE INDIANA**
 31 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 32 **[EFFECTIVE JULY 1, 2016]: Sec. 60.1. IC 15-15-14-16 (Concerning**
 33 **the state, political subdivisions, and the members, officers,**
 34 **employees, and agents of the Indiana Beef Council for debts or**
 35 **actions of the council).**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 16, delete "beef council" and insert "**Beef Council**".

Page 6, delete lines 41 through 42.

Page 7, delete line 1.

Page 7, line 2, delete "(3)" and insert "**(2)**".

Page 7, line 14, delete "(4)" and insert "**(3)**".

Page 7, line 17, delete "(5)" and insert "**(4)**".

Page 7, line 20, delete "or to pay any" and insert ",".

Page 7, line 21, delete "penalty assessed under subsection (b),".

Page 7, line 26, after "assessments" insert ";".

Page 7, line 27, delete "and any unpaid penalty,".

Page 8, line 38, delete "beef council" and insert "**Beef Council**".

and when so amended that said bill do pass.

(Reference is to HB 1224 as introduced.)

LEHE

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB1224 as printed January 15, 2016.)

BROWN T

Committee Vote: Yeas 20, Nays 0

